

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

TODD DARREN SMITH,

Plaintiff,

v.

MICHAEL J. ASTRUE,

Defendant.

C12-1098 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) The Court ADOPTS the R&R, docket no. 19, with the following modification to clarify the Court's ruling:

(a) To the extent Plaintiff argues that the ALJ's failure to consider the pain disorder diagnosis resulted in an error in the ALJ's credibility analysis at step 4, see Opening Brief at 11, docket no. 16, any error is harmless. Plaintiff argues that the pain disorder diagnosis explains the discrepancy between Plaintiff's subjective testimony of pain and the objective medical evidence. But the ALJ found that "although the claimant alleges that his symptoms are so severe that they cause debilitating limitations, the record documents activities that suggest greater functioning." AR at 22.

For example, Function Reports contained in the record indicate that the claimant has no problems performing personal care, prepared meals on a daily basis, do household chores, drive, and shop. The claimant has reported that he walks for exercise, watched a lot of television, and enjoyed reading. In February 2008, the claimant reported that he walked at least two miles per day. In July 2008, he said that he had averaged two to four miles per day.

1 Id. In addition, the ALJ noted that although Plaintiff claimed an inability to work since  
2 February 2006, records indicate that Plaintiff worked past that date and that his inability  
3 to find work was based on reasons other than his alleged physical symptoms. Id. For  
4 these reasons, the ALJ's failure to include the diagnosis of pain disorder as a severe  
5 impairment at step 2 did not result in a reversible error in the ALJ's credibility analysis at  
6 step 4.

7 (2) The Court AFFIRMS the decision of the Commissioner.

8 (3) The Clerk is directed to send a copy of this Minute Order to all counsel of  
9 record.

10 Dated this 10th day of May, 2013.

11 William M. McCool  
12 Clerk

13 s/Claudia Hawney  
14 Deputy Clerk